IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 849 of 1997

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RK INDUSTRIES

Versus

JERAJI P MARWADI

Appearance:

SINGHI & BUCH ASSO. for Petitioner

MRS MADHUBEN SHARMA for Respondent No. 1, 2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 15/02/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties.

2. This is a petition under Article 227 of the Constitution of India wherein the petitioner employer challenges the judgement and award of the Labour Court in

Reference (LCA) No.826/87 whereby it has directed reinstatement of two workmen with full backwages.

3. It appears that there was some controversy between the parties as to whether the offer made by the employer to give work to the respondent workmen at various stages was a genuine and sincere offer or not. However, there are indications on the record that such an offer was made long prior to the dispute between them i.e. even before the matter was placed before the Conciliation Officer and such an offer was made even during the pendency of the conciliation, even during the pendency of the Reference before the Labour Court and ultimately it was only during the pendency of this petition that the respondent workmen ultimately commenced regular attendance to their jobs. As of today they have continued in their service without any dispute.

4. In the net analysis both the learned counsel for the respective parties agree that the controversy now revolves around consideration of backwages to which the respondent workmen may or may not be entitled.

5. A few further facts require to be noted:

(i) Under interim orders passed by this court a sum of Rs.3000/- was provided for the costs of litigation of the respondent workmen which amount they have already received.

(ii) A sum of Rs.10000/- per workman has been deposited in this court by way of security in respect of the outcome of the present petition, and the interest on this amount is being received by the respondent workmen.

6. The question now arises is as to whether this court ought to decide this petition on technical matters and strictly on the basis of the evidence on record or as to whether a lump-sum payment in lieu of backwages could be considered, taking particular note of the fact that the workmen are now happily settled in their jobs and are rendering satisfactory services.

7. As a result of the hearing and discussion both the learned counsel for the respective parties have arrived at a consensus to the effect that instead of directing backwages on technical considerations, this court may direct such lump-sum payment in lieu of backwages as the Court may deem appropriate looking to the facts and circumstances of the case.

8. With this aim in mind I have examined carefully the impugned judgement and award, I have heard the submissions of the learned counsel on this aspect and have referred to the record and proceedings as well.

9. On the peculiar facts and circumstances of the case I, therefore, find and hold that interests of justice will be met by firstly holding that each of the respondent workman would be entitled to Rs.20000/- in lieu of backwages. The amount of Rs.10000/- per workman which is deposited in this court may be withdrawn by them by account payee cheque, which cheque may be handed over to learned counsel for the respondents. The additional Rs.10000/- per workman which is due under the present order shall be paid by the petitioner employer by account payee cheque in favour of each of the concerned workman latest by 1st March 2000. It is accordingly so directed.

10. In the light of the aforesaid observations and directions learned counsel for the petitioner does not press this petition for any further relief and the same is accordingly disposed of. Rule is made absolute to the aforesaid extent with no order as to costs. Subject to the aforesaid observations and directions interim relief stands vacated.

11. It is further clarified that on the petitioner employer making the further payment as directed hereinabove, the impugned judgement and award shall be deemed to have been satisfied.

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